



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/174171

PRELIMINARY RECITALS

Pursuant to a petition filed May 5, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability (DHCAA or Division) in regard to Medical Assistance (MA), a hearing was held on June 22, 2016, by telephone. A hearing set for May 25, 2016, was rescheduled at the petitioner's request.

The issue for determination is whether the Division correctly denied a prior authorization request for bariatric surgery.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

█
█

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By written submission of [REDACTED], M.D.
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Oconto County. She is certified for MA.

2. In February 2016, a prior authorization request was submitted on the petitioner's behalf for bariatric surgery. The Division denied that request in March 2016.
3. The Division's basis for denial was that the request did not meet the Wisconsin Medicaid program's criteria for approval (lack of a co-morbid condition).
4. Subsequently, the petitioner obtained approval for the surgery from Medicare, and underwent the surgery in April 2016.
5. A so-called "cross-over" claim from Medicare does not require prior authorization.

DISCUSSION

Where Wisconsin MA is the primary payer for bariatric surgery, a prior authorization must be obtained. Here, prior authorization was denied, and there is no basis for my overturning that denial. However, the petitioner was able to receive this surgery through Medicare. Only a small portion of the doctor and hospital bill remains for payment by another payment source. The petitioner should ask her medical providers to submit the unpaid remainders of the surgery bill to MA as cross-over claims. It is expected that those bills will then be paid. Prior authorization is not required as a condition of Medicare cross-over claim payment. Thus, no *prior authorization* issue remains for me to decide at this time.

The petitioner should contact her surgery provider's business office to assure that a cross-over claim is submitted to Wisconsin MA.

CONCLUSIONS OF LAW

1. Because the petitioner has received her requested surgery through Medicare and cross-over claim payment is expected, there is no prior authorization issue for this Judge to decide at this time.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in

this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 24th day of June, 2016

\sNancy J. Gagnon
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on June 24, 2016.

Division of Health Care Access and Accountability